

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Suits-APAT- O.A.No. 6635 of 2012 filed by Sri Botcha Sitarama Babjee, Dy. Director(Retd), Tribal Welfare, ITDA, Seethampet, Srikakulam District- Implementation – Orders – Issued.

FINANCE (ADMN-III) DEPARTMENT

G.O. Rt. No. 4107

Dt.16 -11-2013

Read the following:

1. G.O.Rt No. 3717 Finance (Admn.III) Department dated 12-09-2008
2. G.O.Rt No. 3718 Finance (Admn.III) Department dated 12-09-2008
3. Copy of C.A. No. 752/2013 in O.A. No. 6635 of 2012 filed by Sri Botcha Sitarama Babjee, Dy. Director (Retd), Tribal Welfare, ITDA, Seethampet, Srikakulam District.

O R D E R:

Sri B. Sitarama Babjee the then District Tribal Welfare Officer while working in I.T.D.A. Seethampet, Srikakulam District two persons by name Sri P. Prasad S/o Sri P.Sividu and Sri P. Mallesu S/o Sri P. Rajulu were appointed as full time contingent employees on compassionate grounds after posthumously converting of their fathers from full time contingent employees to Last Grade Service with effect from 06-12-1996 and 07-12-1996 and granted time scale of LGS while Act 2 of 1994 is in force at relevant time. When the bills were submitted to Sub Treasury Kurpam, Vizianagaram, they have objected and returned the bills duly stating that their appointments were in deviation to Act 2/94. On the above, the individuals filed O.A.No. 5461 of 2006 and O.A. No. 5642 of 2006. The Hon'ble Tribunal allowed the O.As. and passed orders on 14-11-2007 holding that the individuals are not entitled for monetary benefits from 06-06-1996 and 07-06-1996 respectively till 28-03-2005.

2. The said matter was went to the Hon'ble Supreme Court as per procedure and the SLP filed by the Government was dismissed.

3. During the pendency of the SLP as the individuals have filed a Contempt Applications bearing C.A No. 130 of 2008 and C.A. No. 152/2008 before Hon'ble APAT for implementation of orders of Hon'ble A.P.A.T. passed in O.A. Nos. 5461 of 2006 and O.A. No. 5642 of 2006. Since the Hon'ble Supreme Court has not granted any stay as on the date, Government have issued orders in the reference 1st cited for implementing the Orders of the Tribunal i.e. for payment of salaries to the individuals subject to out come of the S.L.P. filed by the Department before the Hon'ble Supreme Court of India.

4. Govt. have issued orders vide reference 2nd cited wherein it is ordered to recover the loss caused to the Government from the pay and allowances of the appointing authority ie. District Tribal Welfare Officer, Parvathipuram who made irregular appointments in contravention of provisions of Act 2 of 1994, by surcharging the same under the provisions of A.P. State Audit Act 9 of 1989 or where such surcharge is not possible under the said act in accordance with such manner as may be prescribed including them as arrears of land revenue.

5. Aggrieved by the above orders Sri. BSR. Babjee has filed O.A. No. 5830/2009 & VMA No. 2472/2010 before the Hon'ble APAT. The Hon'ble APAT has passed the following orders on 18-03-2011:

“..... in the light of the above circumstances, the O.A. is dismissed as pre mature. However, it is made clear that before proceeding further in pursuance of the impugned G.O.Rt. No. 3718, Finance (Admn.III) Department dated 12-09-2008 the 3rd Respondent shall give adequate opportunity to the applicant to put forth his case and pass appropriate orders according Rules. The Interim order, dated 1-5-2009 shall continue till orders are passed by the 3rd Respondent as directed above. VMAs are closed. No order as to costs”.

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6. Against that the applicant filed W.P. No. 34487 of 2011 in Hon'ble High Court against the orders of Hon'ble APAT passed in O.A. No. 5830/2009. The Hon'ble High Court passed the following interim orders on 16-02-2011.

“.... Interim suspension as prayed for. “

7. During the pendency of the above W.P., the individual has filed another O.A. No. 6635/2012 for sanction of pension and other retirement benefits consequent on his retirement from service on 30-11-2010 on attaining the age of superannuation with all consequential benefits

8. The Hon'ble APAT passed the following orders on 04-12-2012 in O.A. No. 6635/2012 filed by the Sri. BSR. Babjee as follows:-

“..... to treat that the appointments of P. Prasad and P. Mallesu as legal and not hit by Act 2 of 1994 and as applicant retired from service with effect from 30-11-2010, the Respondents are bound to release all the pensinary benefits in favour of the applicant since no disciplinary proceedings are initiated against him.” The Hon'ble Tribunal has further directed the respondents to release the pensionary benefits to the applicant within eight weeks from the date of receipt of this Order with interest at 8%per annum on pension and gratuity from the date of retirement till the date of payment.

9. The individual filed C.A. 752 of 2013 in O.A. No. 6635 of 2012 for implementation of the orders passed in O.A.No. 6635/2012 vide reference 3rd cited. The Hon'ble APAT has directed to comply the orders of APAT passed in O.A. No. 6635/2012 by 18-11-2013 failing which appear before the Tribunal 18-11-2013 at 10.30 A.M. to explain as to why the orders passed by the Tribunal could not be complied with.

10. Government after careful examination, and in due regard to the directions of Hon'ble APAT, Hyderabad hereby decided to implement the orders passed by the Hon'ble A.P.A.T. in O.A. No.6635/2012 filed by Sri Botcha Sitarama Babjee,Dy.Director(Retd), Tribal Welfare, ITDA,Seethampet, Srikakulam District, subject to outcome of the judgement in W.P. No. 34487/2011 pending before the Hon'ble High Court. Regarding payment of interest on pensionary benefits as per rules in force.

11. The Social Welfare (T.W. Ser.I.1) Department shall take further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. D.SAMBASIVA RAO

PRINCIPAL SECRETARY TO GOVERNMENT (FP)

To

Social Welfare (T.W. Ser.I.1) Department

Copy to:

The Commissioner, Tribal Welfare, Hyderabad.

The Dist. Tribal Welfare officer, Vizianagaram

The Dist. Collector, Vizianagaram

The Dist. Treasury Officer, Vizianagaram

The Sub-Treasury Officer, Kurupam

The D.T.A., AP., Hyderabad.

SC/FS

//FORWARDED BY ORDER//

SECTION OFFICER